

§ 423.2264

marketing guidelines and, when applicable, used model language specified by CMS without modification.

(c) *Standardized model marketing materials.* When specified by CMS, organizations must use standardized formats and language in model materials.

(d) *Ad hoc enrollee communication materials.* Ad hoc enrollee communication materials may be reviewed by CMS, which may upon review determine that such materials must be modified, or may not longer be used.

[70 FR 4525, Jan. 28, 2005, as amended at 75 FR 19826, Apr. 15, 2010]

§ 423.2264 Guidelines for CMS review.

In reviewing marketing material or enrollment forms under § 423.2262, CMS determines (unless otherwise specified in additional guidance) that the marketing materials—

(a) Provide, in a format (and, where appropriate, print size), and using standard terminology that may be specified by CMS, the following information to Medicare beneficiaries interested in enrolling:

(1) Adequate written description of rules (including any limitations on the providers from whom services can be obtained), procedures, basic benefits and services, and fees and other charges;

(2) Adequate written explanation of the grievance and appeals process, including differences between the two, and when it is appropriate to use each; and

(3) Any other information necessary to enable beneficiaries to make an informed decision about enrollment.

(b) Notify the general public of its enrollment period in an appropriate manner, through appropriate media, throughout its service area.

(c) Include in the written materials notice that the Part D plan is authorized by law to refuse to renew its contract with CMS, that CMS also may refuse to renew the contract, and that termination or non-renewal may result in termination of the beneficiary's enrollment in the Part D plan. In addition, the Part D plan may reduce its service area and no longer be offered in the area where a beneficiary resides.

(d) Ensure that materials are not materially inaccurate or misleading or

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otherwise make material misrepresentations.

(e) For markets with a significant non-English speaking population, provide materials in the language of these individuals.

§ 423.2266 Deemed approval.

If CMS has not disapproved the distribution of marketing materials or forms submitted by a Part D sponsor for a Part D plan in a Part D region, CMS is deemed to not have disapproved the distribution of the marketing material or form in all other Part D regions covered by the Part D plan, with the exception of any portion of the material or form that is specific to the Part D region.

§ 423.2268 Standards for Part D marketing.

In conducting marketing activities, a Part D plan may not—

(a) Provide cash or other remuneration as an inducement for enrollment or otherwise.

(b) Offer gifts to potential enrollees, unless the gifts are of nominal (as defined in the CMS Marketing Guidelines) value, are offered to all potential enrollees without regard to whether or not the beneficiary enrolls, and are not in the form of cash or other monetary rebates.

(c) Engage in any discriminatory activity such as, for example, attempts to recruit Medicare beneficiaries from higher income areas without making comparable efforts to enroll Medicare beneficiaries from lower income areas.

(d) Solicit door-to-door for Medicare beneficiaries or through other unsolicited means of direct contact, including calling a beneficiary without the beneficiary initiating the contact.

(e) Engage in activities that could mislead or confuse Medicare beneficiaries, or misrepresent the Part D sponsor or its Part D plan. The Part D organization may not claim that it is recommended or endorsed by CMS or Medicare or that CMS or Medicare recommends that the beneficiary enroll in the Part D plan. The Part D organization may explain that the organization is approved for participation in Medicare.